

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JEANNIE L. SMITH,)	CASE NO.
)	
)	JUDGE
Plaintiff,)	
)	
v.)	<u>NOTICE OF REMOVAL</u>
)	
A.C. WRIGHT TRUCKING, INC., et al.)	
)	
Defendants.)	

Now come Defendants, Kever M. Sagely and A.C. Wright Trucking, Inc., by and through undersigned counsel, and pursuant to 28 U.S.C. §1441 and 28 U.S.C. §1446, respectfully request that this Court remove this action from the Franklin County Common Pleas Court in Franklin County, Ohio to the United States District of Ohio. In support of this request, Defendants state as follows:

1. Defendants Kever M. Sagely and A.C. Wright Trucking, Inc. are defendants in the civil action pending in the Court of Common Pleas, Franklin County, Ohio, styled Jeannie L. Smith v. A.C. Wright Trucking, Inc., et al., Franklin County Common Pleas, Case No. 22 CV 001936.
2. Plaintiff filed this action on March 25, 2022.¹ Along with filing the Complaint, Plaintiff on the same date instructed the Clerk of Courts for the Franklin County Common Pleas Court to serve the Complaint on Defendants.²
3. The docket of the state court action indicates that neither Defendant Kever M. Sagely nor A.C. Wright Trucking, Inc. have been served. (See Exhibit B). The Request for

¹ A true and accurate copy of Plaintiff's Complaint is attached hereto as Exhibit A.

² See docket printout attached hereto as Exhibit B.

Service and Complaint constitute all process, pleadings, and orders requested for service upon Defendants in the state court action.

4. Defendants Kever M. Sagely and A.C. Wright Trucking, Inc. file this Notice of Removal pursuant to 28 U.S.C. §1441 and 28 U.S.C. §1446.
5. Plaintiff's action stems from an alleged motor vehicle accident on or about April 14, 2020 in Columbus, Franklin County, Ohio. Plaintiff asserted claims for personal injuries and damages, including allegations that he sustained and will continue to suffer;
 - a. Serious and permanent personal injuries;
 - b. Substantial physical deformity;
 - c. Pain and suffering;
 - d. Emotional distress;
 - e. Loss of enjoyment of life;
 - f. Loss of ability to function as a whole person; and
 - g. Medical bills. (See Exhibit A).
6. Upon information and belief, Plaintiff is an individual of the United States who resides in Obetz, Franklin County, Ohio. As such, Plaintiff is an individual citizen of the State of Ohio. Upon information and belief, Plaintiff is not an individual citizen of any other state. (See Exhibit A).
7. A.C. Wright Trucking, Inc. is a corporation incorporated under the laws of the State of Mississippi.³ A.C. Wright Trucking, Inc. maintains its principal place of business in Booneville, Mississippi. (See Exhibit C). As such, A.C. Wright Trucking, Inc. is a corporate citizen of the State of Mississippi. A.C. Wright Trucking, Inc. is not a

³ See Mississippi Secretary of State printout attached hereto as Exhibit C.

corporate citizen of any other state. As of the date of this Notice of Removal, A.C. Wright Trucking, Inc. has not been served the Summons and Complaint in the state common pleas court case. *See, Lincoln Property Co. v. Roche*, 546 U.S. 81, 84 (2005) (“Defendants may remove an action on the basis of diversity of citizenship if there is complete diversity between all named plaintiffs and all named defendants, and no defendant is a citizen of the forum State.”)

8. Kever M. Sagely resides in Tishomingo, Mississippi, and is an individual citizen of the State of Mississippi. As of the date of this Notice of Removal, Mr. Sagely, too, has not been served the Summons and Complaint in the state common pleas court case. Thus, this matter is subject to removal. *See Roche, supra*.
9. Plaintiff’s filing in the Franklin County Common Pleas indicates that Plaintiff seeks an amount above \$25,000.00, and Plaintiff claims to have experienced “serious and permanent physical injuries” and “substantial physical deformity” as a result of this alleged accident. (See Exhibit A). Therefore, upon information and belief, the amount in controversy in this matter exceeds \$75,000.00, exclusive of interest and costs as required by 28 U.S.C. §1332(a).
10. Given the complete diversity of the parties’ citizenship and the amount in controversy, this court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1332. As such, this action is subject to removal under 28 U.S.C. §1441.
11. Defendants have filed this Notice of Removal within thirty (30) days from which they received Plaintiff’s Complaint. Therefore, this notice is timely pursuant to 28 U.S.C. §1446.

12. Defendants have served a copy of this Notice of Removal upon all parties, and filed the Notice in the appropriate state court, both pursuant to 28 U.S.C. §1446.
13. Defendants assert their right to a trial by jury.
14. Defendants do not waive any jurisdictional or other defenses available to it.
15. Defendants, Kever M. Sagely and A.C. Wright Trucking, Inc., reserve the right to supplement this Notice of Removal and/or present additional arguments supporting its entitle to removal.

WHEREFORE, Defendants, Kever M. Sagely and A.C. Wright Trucking, Inc., pray for the removal of the above-referenced civil action from the Court of Common Pleas, Franklin County, Ohio to the United States District Court for the Southern District of Ohio.

Respectfully submitted,

/s/ Joseph W. Pappalardo

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*Counsel for Defendants Kever M. Sagely, and
A.C. Wright Trucking, Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the above and foregoing was served this 11th day of April, 2022 by electronic mail and/or ordinary U.S. Mail, postage prepaid, upon the following:

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